

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
June 17, 2003
6:30 p.m. Closed Session
7:30 p.m. Public Business
455 E. Calaveras Boulevard

I. ROLL CALL (6:30 p.m.)

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Government Code Section 54957.6)

Agency Negotiator: Cherie Rosenquist

Employee Organizations: LIUNA, MEA, MPOA, MSA, and Unrepresented

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:30 p.m.)

V. APPROVAL OF MINUTES (none)

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Certificates of Appointments:

- Frank DeSmidt, Economic Development Commission
- Diane McDonough, Economic Development Commission
- Christie Gammon, Economic Development Commission
- Dhaval Brahmhatt, Economic Development Commission

Proclamations:

- Relay for Life (Lorraine Hepworth to accept)
- Survivors of Cancer (Kathy Merkley to accept)
- Amateur Radio Week, June 21-29, 2003

Commendations:

- Graduates of the SAFE Program

Graduated May 17 (Team 2):

Minh Nguyen Thanh Nguyen

Graduated May 17 (Team 6)

Dennis Buldo	George Chew	Lisa Ciardella	Barbara Buldo	Justin Chew
Nick Ciardella	Michael Carr	Chris Ciardella	Vernon DeMand	John Chaw
Larry Ciardella	Mike Serpa	Carol Chew		

Graduated April 26 (Team 5):

Javier Barragan	Brian Lujan	Grace Olivera	Cathy Blissard	Michelle McEwen
Bob Roberts	Christina Cortez	Robert McEwen	Scott Smedley	Marc Lewert
Neil Mackenzie	Lisa Yates	Lucy Li		

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks)

XII. PUBLIC HEARINGS

- 1. Approve Entertainment Event Permit: Rotary/Downtown Association: "4th of July Serra Street Faire" (Staff Contact: Gail Blalock, 586-3003)**
- 2. Approve a Density Bonus and Negative Declaration No. P-EA2003-1 and Uphold Planning Commission Approval of "S" Zone No. P-SZ2002-6 and Use Permit No. P-UP2002-35 Applications for Apton Plaza – 230 North Main Street (Staff Contacts: Felix Reliford, 586-3071 and Staci Pereira, 586-3278)**
- 3. Adopt Resolution Approving the Annual Engineer's Report and the Levying of Assessments for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Program No. 9474 (Staff Contact: Mehdi Khaila, 586-3328)**
- 4. Adopt Resolution Approving the Annual Engineer's Report and the Levying of Assessments for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Program No. 9489 (Staff Contact: Mehdi Khaila, 586-3328)**

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES (None)

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. Approve Amendment to the Combined Implementation Plan for the Milpitas Redevelopment Agency to Include the Area Added by the Eighth Amendment to Project Area No. 1 (Staff Contact: Blair King, 586-3060)

***RA6. Review Progress Report on 3rd and 4th Floor Improvements and Project Closeout Progress: Civic Center (Project No. 8026) (Staff Contact: Greg Armendariz, 586-3220)**

***RA7. Approve Authorization to Enter into Negotiations with Apton Properties Inc., for Affordable Housing Units (Staff Contact: James Lindsay, 586-3274)**

RA8. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

- 5. Request from South Bay School of Music to Waive Fee for Rental of City Stage: Mayor Esteves**
- *6. Approve the Mayor's Appointments to the Community Advisory Commission: Mayor Esteves**

XV. UNFINISHED BUSINESS (None)

XVI. NEW BUSINESS

- *7. Approve Two Youth Sports Assistance Fund Grant Requests (Staff Contact: Kerrilyn Ely, 586-3225)**

XVII. ORDINANCES

- 8. Introduce Ordinance No. 23.9 Amending Chapter 2 of Title I of the Municipal Code Relating to Purchasing (Staff Contact: Lou Zenzen, 586-3161)**
- *9. Adopt Ordinance No. 192.14 Amending Ordinance No. 192, as Previously Amended and Approving and Adopting the Amendment to the Redevelopment Plan for the Milpitas Redevelopment Project No. 1 (Staff Contact: Blair King, 586-3060)**
- *10. Adopt Ordinance No. 172.40 (P-AD2003-6) Amending Title III, Chapter 6 (Massage Establishments and Practitioners) of the City of Milpitas Municipal Code (Staff Contacts: Tambri Heyden, 586-3280 and Charlie Lawson, 586-2401)**

XVIII. RESOLUTIONS

- *11. Adopt Resolution Granting Final Acceptance: Piedmont Road Improvements at Greenrock Road (Project No. 4210) (Staff Contact: Steve Erickson, 586-3317)**
- *12. Adopt Resolution Granting Final Acceptance: Yosemite Business Park (Project No. 3117) (Staff Contact: Steve Erickson, 586-3317)**

XIX. BIDS AND CONTRACTS

- *13. Approve California Highway Patrol High Occupancy Vehicle Agreement for Traffic Enforcement Services on Santa Clara County Expressways (Staff Contact: Sandra Holliday, 586-2426)**
- *14. Approve Consultant Agreement: Raines, Melton, and Carella, Incorporated, Lagoon Treatment Capacity Evaluation (Staff Contact: Darryl Wong, 586-3345)**
- *15. Approve Agreement with MBIA Muniservices for Financial Consultant Services and Adopt a Resolution Designating MBIA Muniservices Company as the Authorized City Representative to Examine Sales and Use Tax Records (Staff Contact: Emma Karlen, 586-3145)**
- *16. Approve Agreement Amendment: 4Leaf, Inc., Silicon Valley Intelligent Transportation System (ITS) (Project No. 4219) (Staff Contact: Mike McNeely, 586-3301)**
- *17. Approve Agreement Amendment: Gelfand RNP Architects, Senior Center Renovation (Project No. 8134) (Staff Contact: Mark Rogge, 586-3257)**

- *18. Approve the Amended Contract with the County of Santa Clara for the Senior Nutrition Program (Staff Contact: Kathleen Yurchak, 586-3209)**
- *19. Approve Agreement Amendment: Pyro Spectaculars, Inc., for July 4th Fireworks Display (Staff Contact: Lou Zenzen, 586-3161)**
- *20. Approve Agreement: SSA Landscape Architects, Inc., for Design Services for Selwyn Park Improvements and Hetch-Hetchy Landscape Renovation (Project Nos. 5078 and 5053) (Staff Contact: Mark Rogge, 586-3257)**
- *21. Approve Agreement Between the City of Milpitas and Milpitas Unified School District for Summer 2003 Transportation Services (Staff Contact: Dale Flunoy, 586-3228)**
- *22. Award Bid for Nine Community Resources in Boxes (Crib) Supply Kits (Staff Contact: Lou Zenzen, 586-3161)**

XX. CLAIMS AND DEMANDS

- *23. Approve Budget Transfer for \$60,000 from CIP No. 4109, Street Light Pole Painting, to CIP No. 4067, Annual Sidewalk Replacement (Staff Contact: Dennis Cuciz, 586-2631)**
- *24. Approve Payment Requests: Miscellaneous Vendors/Contractors (Staff Contact: Lou Zenzen, 586-3161)**
- *25. Approve Payroll Register (Staff Contact: Emma Karlen, 586-3145)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, July 1, 2003, AT 7:30 P.M.**

NOTICE:

Beginning August 5, 2003, the public portion of the City Council meetings will begin at 7:00 p.m.

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Milpitas City Council Meeting
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XII. PUBLIC HEARINGS

1. APPROVE ENTERTAINMENT EVENT PERMIT: ROTARY/DOWNTOWN ASSOCIATION: "4TH OF JULY SERRA STREET FAIRE" (STAFF CONTACT: GAIL BLALOCK, 586-3003)

BACKGROUND: The Rotary Club and Downtown Association have submitted an application for an Entertainment Event Permit to hold a Street Faire on July 4th on Serra Way adjacent to Main Street from noon to 5:00 p.m. The application has been reviewed and approved by the various City departments and the public hearing advertised as required by the City Ordinance.

A letter was also submitted requesting:

- Waiver of all City fees for the event: (\$1,693)
Application Fee: \$100
Application Processing Fee: \$15
Permits required for outdoor cooking, tents, and membrane structures (\$196 per permit)
Fire Inspection required for fire safety clearance (estimated at \$98)
Clean up Deposit of \$500
- Provide the City-owned stage and seating for 200 people at no cost: (\$300)
Towing: \$200
Staff moving costs: \$100 (Overtime charges: 4 hours @ \$25 = \$100)
- Provide City Police and Fire support personnel as required for security, fire safety, and first aid at no cost

The council has the authority to exempt the vendors from the requirements for the business licenses (approximately \$50 each).

RECOMMENDATION:

1. Close the public hearing.
2. Waive business license fee requirements.
3. Consider waiving all City fees and costs.
4. Approve the Entertainment Event Permit, as requested by the Rotary Club and Downtown Association, subject to the conditions set forth by the Fire and Planning Departments and receipt of a certificate of insurance.

2. APPROVE A DENSITY BONUS AND NEGATIVE DECLARATION NO. P-EA2003-1 AND UPHOLD PLANNING COMMISSION APPROVAL OF "S" ZONE NO. P-SZ2002-6 AND USE PERMIT NO. P-UP2002-35 APPLICATIONS FOR APTON PLAZA – 230 NORTH MAIN STREET (STAFF CONTACTS: FELIX RELIFORD, 586-3071 AND STACI PEREIRA, 586-3278)

BACKGROUND: Apton Plaza is a proposed Midtown 5-story, mixed use development consisting of 102 apartments and 6,000 square feet of retail. Design of the development includes deviations from the MXD-TOD (Mixed Use Transit Oriented Development Overlay District) height and setback regulations, a density bonus and a vacation of a portion of Weller Lane, North Main Street and Railroad Court, as well as a land exchange with the City. The Planning Commission reviewed the Apton Plaza project at their meeting on May 14, 2003 and approved "S" Zone No. P-SA2002-6 and Use Permit No. P-UP2002-35 applications subject to the revised conditions and recommended Council approval of the density bonus.

The 15% density bonus the applicant seeks is to exceed the maximum density (40 units per acre) allowed under the Mixed Use land use designation with TOD overlay for a density bonus of 46 units per acre. The applicant intends to meet the state and city (Section 41 of the Zoning Ordinance) Density Bonus regulations by designating a certain percentage of units affordable to lower income households. The city must grant a density bonus and at least one concession or incentive or provide other incentives or concessions of equivalent financial value based upon the land cost per dwelling unit, if the applicant for the housing development agrees or proposes to construct at least one of the following:

- 1) 20% of the total number of units of a housing development for lower income households;
- 2) 10% of the total number of units of a housing development for very low- income households;
- 3) 50% of the total number of units in a housing development senior residents;
- 4) 20% of the total units in a condominium project.

The applicant has agreed to reserve 18 affordable units (9 very low income, 5 low income and 4 moderate income) to meet the density bonus requirements and Midtown Specific Plan affordable housing policies. The nine units reserved for very-low income households (10% of the 89 units allowed under the land use) qualify the project for a density bonus. Therefore, the applicant is proposing 102 units; 13 units more than allowed under the existing land use designation and is requesting the following reductions in the MXD-TOD development standards as concessions:

- Exceeding 4-story building height and footage height limit maximums.
- Reduced building setback of 16 feet on Weller Lane.

A Negative Declaration, a statement briefly describing the reasons that the proposed project will not have a significant effect on the environment, was completed for this project and recommended for approval by the Planning Commission. The review period began on March 6, 2003 and ended March 26, 2003. Staff did not receive any public comment on this document. A statement of conformance was attached to the negative declaration that indicates the project is in conformance with the previously approved Milpitas Midtown Program EIR. The Program EIR provided mitigation measures for air quality, biological resources, hazardous materials, cultural resources, traffic, and utility impacts. Of these types of impacts, only the traffic mitigation from the Midtown EIR will be applicable to this project and is included as a condition of approval. To enable the Council to better understand the design aspects of the project and the manner in which the additional density bonus units are incorporated into the project design, the City Manager has exercised his ability under the Municipal Code (Section I-20-6.03) to pull forward the Planning Commission approved "S" Zone and Use Permit applications. This has been done solely for the purpose of edification. Details regarding the project design are discussed in the staff report included in the Council's agenda packet.

RECOMMENDATION:

1. Close the public hearing.
2. Uphold the Planning Commission's approval of "S" Zone No. P-SZ2002-6 and Use Permit No. P-UP2002-35 applications and approve the requested density bonus and Negative Declaration (P-EA2003-1) subject to the Findings and Recommended Special Conditions included in the Council's agenda packet.

3. ADOPT RESOLUTION APPROVING THE ANNUAL ENGINEER'S REPORT AND THE LEVYING OF ASSESSMENTS FOR LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1, McCARTHY RANCH, PROGRAM NO. 9474 (STAFF CONTACT: MEHDI KHAILA, 586-3328)

BACKGROUND: On June 3, 2003, the Council adopted Resolution of Intention No. 7310 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 95-1. The District provides for the servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway feature on Ranch Drive. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$238,191 for the 2003-2004 fiscal year. This amount is the same as the 2002-2003 total assessment, except for the application of the annual Consumer Price Index (CPI) escalation factor.

RECOMMENDATION:

1. Close the public hearing.
2. Adopt Resolution approving Annual Engineer's Report, Confirm Diagram and assessment and ordering levy of assessments for fiscal year 2003-2004, for Landscaping and Lighting Maintenance Assessment District No. 95-1.

4. ADOPT RESOLUTION APPROVING THE ANNUAL ENGINEER'S REPORT AND THE LEVYING OF ASSESSMENTS FOR LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1, SINCLAIR HORIZON, PROGRAM NO. 9489 (STAFF CONTACT: MEHDI KHAILA, 586-3328)

BACKGROUND: On June 3, 2003, the City Council adopted Resolution of Intention No. 7311 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 98-1. The District provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$31,612.84 for the 2003-2004 fiscal year. This amount is the same as the 2002-2003 total assessment, except for the application of the annual Consumer Price Index (CPI) escalation factor.

RECOMMENDATION:

1. Close the public hearing.
2. Adopt Resolution approving Annual Engineer's Report, Confirm Diagram and assessment and ordering levy of assessments for fiscal year 2003-2004, for Landscaping and Lighting Maintenance Assessment District No. 98-1.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES (None)

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. APPROVE AMENDMENT TO THE COMBINED IMPLEMENTATION PLAN FOR THE MILPITAS REDEVELOPMENT AGENCY TO INCLUDE THE AREA ADDED BY THE EIGHTH AMENDMENT TO PROJECT AREA NO. 1. (STAFF CONTACT: BLAIR KING, 586-3060)

BACKGROUND: Pursuant to the Health and Safety Code Section 33490(c), Redevelopment Agencies must adopt, after a public hearing, an Implementation Plan that describes the goals, objectives, and projects to be accomplished within a five-year period.

Currently, the Agency has one combined Implementation Plan for both of the City's existing redevelopment project areas (Redevelopment Project No.1 and the Great Mall Redevelopment Project) (included in the Council's agenda packet). The current Implementation Plan was adopted in October 2000 for a five-year cycle that ends October 2004.

The territory that will be added to Project Area No.1 as a result of the Eighth Amendment may be incorporated into the existing Implementation Plan, if the Plan is amended after a Public Hearing. If not, a stand-alone Implementation Plan for the Added Midtown area will need to be drafted. This would be costly, cumbersome, and reduces the effectiveness of the one combined Implementation Plan. It is proposed that the current Implementation Plan be amended to include the goals of the Midtown Specific Plan as the goals of the Added Area; then, as the Implementation Plan is updated in 2004, a new review of all of the Agency's objectives can be undertaken. This proposal is discussed in depth on pages 123 through 131 in the previously distributed Report to the City Council for the Eighth Amendment.

Adoption of an Implementation Plan does not constitute an approval of any specific program, project, or expenditure and, therefore, is not a project under CEQA requiring environmental documentation.

All posting and publication requirements (posted for four weeks and published for three) as described in state law for this Public Hearing have been met.

RECOMMENDATION:

1. Close the Public Hearing.
2. Adopt Resolution amending the current Combined Implementation Plan for the Milpitas Redevelopment Agency to include the area added by the Eighth Amendment to Project Area No. 1.

***RA6. REVIEW PROGRESS REPORT ON 3RD AND 4TH FLOOR IMPROVEMENTS AND PROJECT CLOSEOUT PROGRESS: CIVIC CENTER (PROJECT NO. 8026) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)**

BACKGROUND: Staff is continuing to work on the following project closeout items:

- Completion of the project as-built plans;
- Completion of 7 remaining punch list items with two contractors;
- Development and completion of the building operations & maintenance manuals;
- Final ergonomic furniture & additional department filing purchase order;

The project contingency remains at \$162,183.

Third and Fourth floor improvements – The third floor lobby improvements are currently underway. The modular furniture and help desks were installed on Saturday May 31st. New illuminated "Exit" signs were also installed and power receptacles within the modular furniture were wired. The remaining improvements including modifications to the elevator program are scheduled to occur by the end of June, well ahead of schedule. Preparations of detailed plans for the fourth floor improvements are continuing. Additional information is included in the Council's agenda packet.

RECOMMENDATION: Note, receipt and file project close out progress report.

***RA7. APPROVE AUTHORIZATION TO ENTER INTO NEGOTIATIONS WITH APTON PROPERTIES INC., FOR AFFORDABLE HOUSING UNITS (STAFF CONTACT: JAMES LINDSAY, 586-3274)**

BACKGROUND: Apton Properties, Inc., of Fremont, California is proposing to develop a mixed-use project with approximately 102 residential units and 6,000 square feet of commercial space. Attached is a request from the developer seeking Agency financial assistance to develop approximately 18 of the above units for moderate, low, and very-low income renters. It is recommended that the Board authorize staff to enter into negotiations with Apton Properties, Inc. for the purpose of providing financial assistance from the Agency's Affordable Housing set-aside funds. Agency authorization to enter into negotiations should not be considered implied approval for any of the forms of assistance requested by the developer. Any agreement negotiated is subject to Agency/Council review and approval.

RECOMMENDATION: Approve Authorization to enter into negotiations with Apton Properties, Inc., to provide Agency Finance Assistance from its Affordable Housing set-aside funds.

RA8. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

5. REQUEST FROM SOUTH BAY SCHOOL OF MUSIC TO WAIVE FEE FOR RENTAL OF CITY STAGE: MAYOR ESTEVES

BACKGROUND: The Mayor has received a request from South Bay School of Music regarding the rental fee for using the City of Milpitas stage at the Milpitas Chamber of Commerce Art and Wine Festival. As part of the new Fee Schedule approved by Council last year, rental of the stage is \$350 per day. South Bay School of Music is requesting a waiver of \$700 for two days use of the equipment. Included in the Council's agenda packet is the City of Milpitas Fee Schedule and the e-mail from Joe Santoro, South Bay School of Music, requesting the waiver.

RECOMMENDATION: Consider request.

***6. APPROVE THE MAYOR'S APPOINTMENTS TO THE COMMUNITY ADVISORY COMMISSION: MAYOR ESTEVES**

BACKGROUND: Mayor Esteves is recommending the appointment of Syed Mohsin to fill the vacancy on the Community Advisory Commission created by Ray Maglalang's appointment to the Economic Development Commission. The Mayor is also recommending appointing Craig Ranker to Alternate 2 (from the Alternate 3 position) and appointing Chris Lee to Alternate 3 (from the Alternate 4 position). Copies of current applications for the Community Advisory Commission are included in the Council's agenda packet.

RECOMMENDATION: Approve the Mayor's appointment of Syed Mohsin to a regular member of the Community Advisory Commission for a term expiring January 2006; the appointment of Craig Ranker to the Alternate 2 position for a term expiring January 2004; and the appointment of Chris Lee to the Alternate 3 position for a term expiring January 2004.

XV. UNFINISHED BUSINESS (None)

XVI. NEW BUSINESS

***7. APPROVE TWO YOUTH SPORTS ASSISTANCE FUND GRANT REQUESTS (STAFF CONTACT: KERRILYN ELY, 586-3225)**

BACKGROUND: On June 25, 2002, the Milpitas City Council approved and appropriated \$10,000 for the Youth Sports Assistance Fund for the 2002-2003 budget year. Included in the Council's agenda packet for review and consideration are two Individual Youth Sports Assistance Fund applications.

- Steven Ragsdale who is requesting \$265 to offset costs of competing in the National BMX ABA racing on April 25-27, 2003 in Hanford California.
- Randy Zappia, who is requesting \$220 to offset costs of competing in the National BMX ABA racing on April 25-27, 2003 in Hanford California.

These individual applications fall within the grant guidelines, under section, "Funding consideration will be given", page 3, item #4 states; "As an event occurring where additional funding is required for a special event where participants are advancing beyond the normal spectrum..."

The Parks, Recreation and Cultural Resources Commission reviewed this grant at its June 14, 2003, meeting and recommended approval to the City Council.

There is currently a balance of \$ 4,670 in the 2002-2003 Youth Sports Assistance Fund.

RECOMMENDATION: Approve the two Individual Youth Sports Assistance grants for Steven Ragsdale and Randy Zappia, as recommended by the Parks, Recreation and Cultural Resources Commission leaving a balance of \$4,185.

XVII. ORDINANCES

8. INTRODUCE ORDINANCE NO. 23.9 AMENDING CHAPTER 2 OF TITLE I OF THE MUNICIPAL CODE RELATING TO PURCHASING (STAFF CONTACT: LOU ZENZEN, 586-3161)

BACKGROUND: Staff has reviewed the Purchasing chapter of the Milpitas Municipal Code and is proposing changes to reflect current operating practices for order deliveries and to eliminate the bid process requirements on non-biddable services. The attached staff report provides further discussion.

RECOMMENDATION:

1. Waive reading beyond the title.
2. Introduce Ordinance No.23.9 amending Chapter 2 of Title I of the Milpitas Municipal Code.

***9. ADOPT ORDINANCE NO. 192.14 AMENDING ORDINANCE NO. 192, AS PREVIOUSLY AMENDED AND APPROVING AND ADOPTING THE AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE MILPITAS REDEVELOPMENT PROJECT NO. 1 (STAFF CONTACT: BLAIR KING, 586-3060)**

BACKGROUND: On June 3, 2003, during the continued joint meeting of the City Council/Redevelopment Agency, the City Council voted to introduce Ordinance No. 192.14, the Eighth Amendment to the Redevelopment Plan.

The Eighth Amendment, if adopted, will add another \$1.898 billion to the existing tax increment limit of \$502 million (approximately \$1.277 billion in new discretionary tax increment revenue and approximately \$379 million in new affordable housing revenue); add approximately 690 acres of the Midtown Area to the Existing Project Area; increase the bond debt limit from \$75 million to \$498 million; and revise and update various text provisions to conform with the requirement of state law.

RECOMMENDATION:

1. Waive full reading of the ordinance.
2. Adopt Ordinance No. 192.14, Amending Ordinance No. 192, as previously amended and approving and adopting the amendment to the Redevelopment Plan for the Milpitas Redevelopment Project No. 1.

***10. ADOPT ORDINANCE NO. 172.40 (P-AD2003-6) AMENDING TITLE III, CHAPTER 6 (MESSAGE ESTABLISHMENTS AND PRACTITIONERS) OF THE CITY OF MILPITAS MUNICIPAL CODE (STAFF CONTACTS: TAMBRI HEYDEN, 586-3280 AND CHARLIE LAWSON, 586-2401)**

BACKGROUND: Proposed Ordinance No. 172.40, included in the Council's agenda packet, was introduced by the City Council for first reading at its meeting of June 3, 2003. This ordinance involves amendments to the City's massage establishments and practitioners code. In addition to meeting zoning and business license requirements, the code requires certain individuals who perform massage to obtain a massage permit issued by the Police Department. The amendments are intended to expand the permit application requirements to allow more extensive screening and background checks to be performed, and require a permit for a greater number of individuals who perform massage. The amendments to the massage establishments and practitioner's code are summarized as follows:

- a) removal of the massage permit exemption for individuals who perform massage as independent contractors, rather than direct employees, of physicians, surgeons, chiropractors, osteopaths, nurses, physical therapists and acupuncturists;
- b) expanded employment history information from 5 years to 10 years and certain criminal-related history to be submitted for a massage permit application;
- c) additional circumstances upon which the Police Chief is authorized to delay and/or deny an application;
- d) new training/educational requirements for individuals applying to renew a permit; and
- e) additional circumstances upon which the Police Chief is authorized to suspend or revoke a permit.

RECOMMENDATION:

1. Waive full reading of the ordinance.
2. Adopt Ordinance No. 172.40 (P-AD2003-6).

XVIII. RESOLUTIONS

***11. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: PIEDMONT ROAD IMPROVEMENTS AT GREENROCK ROAD (PROJECT NO. 4210) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: This project was initially accepted on May 21, 2002, and has passed the One Year Warranty period. A final inspection has been made and the public improvements, which include removal of, damaged pavement, curb and gutter replacement and drainage improvements adjacent to the roadway are satisfactory. Therefore, a final acceptance may be granted and the contractor's bond may be released.

RECOMMENDATION: Adopt resolution granting final acceptance and releasing the bond.

***12. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: YOSEMITE BUSINESS PARK (PROJECT NO. 3117) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: This project, which was initially accepted on June 4, 2002, has passed the one-year warranty period. A final inspection has been made and the public improvements, which include a private street, underground utilities and connections to the public right of way, are satisfactory. Therefore, a final acceptance may be granted and the developer's bond may be released.

RECOMMENDATION: Adopt resolution granting final acceptance and releasing the bond.

XIX. BIDS AND CONTRACTS

***13. APPROVE CALIFORNIA HIGHWAY PATROL HIGH OCCUPANCY VEHICLE AGREEMENT FOR TRAFFIC ENFORCEMENT SERVICES ON SANTA CLARA COUNTY EXPRESSWAYS (STAFF CONTACT: SANDRA HOLLIDAY, 586-2426)**

BACKGROUND: The California Highway Patrol has been providing full traffic enforcement services, including collision investigations and issuing traffic citations on Montague Expressway, since 1987. The City of Milpitas, along with the cities of Campbell, San Jose, Santa Clara, and the County have participated in a joint agreement with the California Highway Patrol (CHP) for full cost recovery services in accordance with the California Vehicle Code. A new agreement covering the period July 1, 2003, through June 30, 2006, is necessary to continue this program. The agreement may be extended in three-year increments by amendment.

The CHP estimates that it will cost \$300,000 to provide this traffic enforcement service each fiscal year to the designated expressways in the four cities and the county. Fines and forfeitures that are collected by the County and deposited with the State will be used to offset the \$300,000 cost of enforcement. Any excess monies will be returned to the participating cities based on the percentage of expressway miles. Milpitas has 1.37 expressway miles on Montague Expressway and will be responsible for 6.94% of the \$300,000 cost or the lesser amount offset by collections. A 90-day withdrawal from this contract by any city is provided. The contract has been reviewed and approved as to form by the City Attorney's Office.

RECOMMENDATION: Authorize the City Manager to execute the HOV agreement.

***14. APPROVE CONSULTANT AGREEMENT: RAINES, MELTON, AND CARELLA, INCORPORATED, LAGOON TREATMENT CAPACITY EVALUATION (STAFF CONTACT: DARRYL WONG, 586-3345)**

BACKGROUND: This project is to determine available pollutant removal treatment capacity at the City's stormwater retention basins to reduce urban runoff pollutant discharges as required under the new City stormwater discharge permit. In accordance with the City's standard consultant selection procedure, the firm of Raines, Melton, and Carella, Inc. has been selected to perform the evaluation. Staff has determined that the cost to perform this work is reasonable, and there are sufficient funds in the 2002-2003 Utility Engineering operating budget. Staff recommends that the City enter into an agreement with Raines, Melton, and Carella, Inc., to perform the evaluation for a not-to-exceed fee of \$35,000.

RECOMMENDATION: Authorize the City Manager to execute the agreement for lagoon treatment capacity evaluation with Raines, Melton, and Carella, Inc., in the amount not-to-exceed \$35,000, subject to approval by the City Attorney as to form.

***15. APPROVE AGREEMENT WITH MBIA MUNISERVICES FOR FINANCIAL CONSULTANT SERVICES AND ADOPT A RESOLUTION DESIGNATING MBIA MUNISERVICES COMPANY AS THE AUTHORIZED CITY REPRESENTATIVE TO EXAMINE SALES AND USE TAX RECORDS (STAFF CONTACT: EMMA KARLEN, 586-3145)**

BACKGROUND: MBIA MuniServices Company (MMC) was awarded the contract for financial consultant services in March 1996. The current contract will expire on June 30, 2003. MMC proposes to continue to provide essentially the same services, which include quarterly sales tax analysis and reporting, sales tax audits, and property tax audits. The fee structure is that the City will pay for the quarterly sales tax analysis and reporting at \$1,000 per quarter. The \$1,000 quarterly payments will be adjusted annually, at the rate of 4% increase or the Consumer Price Index, whichever is higher. All other audit services are compensated from a percentage of the

revenues recovered. The proposed term of the agreement is for three years, unless otherwise extended. MMC has provided valuable services and information to the City in sales tax analysis and reporting. Their sales tax audits have assisted the City and Agency recover more than \$6 million in revenues to date. Staff feels that their services have provided benefits to the City and recommends approval of this contract.

RECOMMENDATION:

1. Approve the agreement with MBIA MuniServices Company, subject to approval as to form by the City Attorney.
2. Adopt a resolution designating MBIA MuniServices Company as the authorized City representative to examine sales and use tax records.

***16. APPROVE AGREEMENT AMENDMENT: 4LEAF, INC., SILICON VALLEY INTELLIGENT TRANSPORTATION SYSTEM (ITS) (PROJECT NO. 4219) (STAFF CONTACT: MIKE MCNEELY, 586-3301)**

BACKGROUND: On August 6, 2002, the Council awarded a consultant contract to 4Leaf, Inc. for Construction Management and Inspection of the Silicon Valley Intelligent Transportation System (ITS) project. This multi-jurisdictional project will extend fiber optic communication lines between Traffic Management Centers in Fremont, Milpitas and Caltrans District Office in Oakland. Closed Circuit Television (CCTV) cameras will also be installed along the North-South corridors between Milpitas and Fremont to monitor traffic congestion. All costs for this project are reimbursed by State and Federal grants.

Additional services are needed from 4Leaf, Inc. because of an increase in contract duration due to unforeseen conditions and additional items added to enhance the project. An agreement amendment with 4Leaf, Inc. is therefore proposed for these additional services with a not-to-exceed amount of \$32,000. There are sufficient funds in the grant funded project budget to cover this additional expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with 4Leaf, Inc., in the not-to-exceed amount of \$32,000, subject to approval as to form by the City Attorney.

***17. APPROVE AGREEMENT AMENDMENT: GELFAND RNP ARCHITECTS, SENIOR CENTER RENOVATION (PROJECT NO. 8134) (STAFF CONTACT: MARK ROGGE, 586-3257)**

BACKGROUND: On September 17, 2002, City Council awarded a consultant contract to Gelfand RNP Architects for feasibility and conceptual design for the existing Senior Center Facility. The preliminary work explored options for the center. This work along with similar preliminary design work for the library indicated some alternate options that may have significant merit.

Staff recommends that Gelfand RNP Architects perform additional services to provide costing guidelines, programming and diagram modifications to consider and illustrate present new options. An agreement amendment with Gelfand RNP Architects is proposed to add \$6,000 in contingency for proposed design options. The contingency would only be spent, as needed, with written direction from the City. There are sufficient funds in the project budget to cover this additional expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with Gelfand RNP Architects, in the amount of \$6,000.00, subject to approval as to form by the City Attorney.

***18. APPROVE THE AMENDED CONTRACT WITH THE COUNTY OF SANTA CLARA FOR THE SENIOR NUTRITION PROGRAM (STAFF CONTACT: KATHLEEN YURCHAK, 586-3209)**

BACKGROUND: The City of Milpitas has contracted with the County of Santa Clara in implementing the senior Nutrition Program since March 1978. Included in the Council's agenda packet is a copy of the amended contract as approved by the City Attorney between County of Santa Clara and City of Milpitas for the purpose of providing meals for senior citizens utilizing funds pursuant to the Older American Act of 1965, as amended.

The 3-month contract extension amendment is provided for the continuation of uninterrupted nutrition services from July 2003 through September 2003, pending execution of the full term contract for fiscal year 2003-2004. Adequate funds have been budgeted and conceptually approved by City Council, in the Recreation Services FY 2003-2004 operating budget.

RECOMMENDATION: Approve the amended contract as approved to form by the City Attorney. Sufficient funds have been conceptually approved in the FY 2003-2004 budget.

***19. APPROVE AGREEMENT AMENDMENT: PYRO SPECTACULARS, INC., FOR JULY 4TH FIREWORKS DISPLAY (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Pyro Spectaculars, Inc. was awarded the bid for the annual July 4th fireworks display and an agreement was executed on June 6, 1997. The term of the agreement allows for annual extensions that are mutually agreed upon by both parties. Staff has met with the contractor and has agreed on a new ground fireworks program and feels Pyro Spectaculars will provide a very entertaining show just as they have in past years, for the funds allocated. The cost of this year's new ground display will be \$16,000, the same as last year. Staff recommends extending the agreement with Pyro Spectaculars for this year's fireworks display in the amount not to exceed \$16,000. Funds for this service have been allocated in the fiscal year 2003/04 Recreation Special Events operating budget.

RECOMMENDATION: Approve the amendment to the agreement with Pyro Spectaculars, Inc., subject to approval as to form by the City Attorney, and authorize the expenditure in the amount not to exceed \$16,000.

***20. APPROVE AGREEMENT: SSA LANDSCAPE ARCHITECTS, INC., FOR DESIGN SERVICES FOR SELWYN PARK IMPROVEMENTS AND HETCH-HETCHY LANDSCAPE RENOVATION (PROJECT NOS. 5078 AND 5053) (STAFF CONTACT: MARK ROGGE, 586-3257)**

BACKGROUND: Hetch-Hetchy Right-of-Way Landscape Renovation (Project No. 5053) is included in the current Capital Improvement Program. It provides for design and construction of landscape improvements on San Francisco Water Department (Hetch-Hetchy) Right-of-Way located between Washington Drive and Coelho Street. Amenities will include pathway paving, plantings and irrigation.

On May 20, 2003, the City Council approved creation of a new Capital Improvement (Project No. 5078) for Selwyn Park improvements and authorized funding. The project includes upgrades to the playground, lighting and basketball area, landscaping, and related work.

It is proposed that SSA Landscape Architects, Inc. (SSA) be used to provide professional landscape architectural design services for both of these projects. SSA Landscape Architects was selected, in accordance with City's procedures for selection of professional consulting services. SSA has submitted a fee estimate not-to-exceed \$19,900 for design of Hetch-Hetchy Landscape Renovation, and \$25,400 for design of Selwyn Park Improvements. These fees are considered reasonable for the work involved.

RECOMMENDATION: Authorize the City Manager to enter into the agreement with SSA Landscape Architects, Inc. for design services for Hetch-Hetchy Landscape Renovation and Selwyn Park Improvements (Project Nos. 5053 and 5078) in the amount of \$45,300, subject to approval as to form by the City Attorney.

***21. APPROVE AGREEMENT BETWEEN THE CITY OF MILPITAS AND MILPITAS UNIFIED SCHOOL DISTRICT FOR SUMMER 2003 TRANSPORTATION SERVICES (STAFF CONTACT: DALE FLUNOY, 586-3228)**

BACKGROUND: Milpitas Recreation Services has contracted with the Milpitas Unified School District for transportation services for the City's Camp Stay & Play Program over the past five years. The Milpitas Unified School District provides the most economic transportation services within the surrounding area. This agreement has been approved as to form by the City Attorney and would be valid from June 23, 2003, through August 15, 2003.

The contract is not-to-exceed \$15,000.00, for which funds are available in the Recreation Services 2003-2004 operating budget.

RECOMMENDATION: Approve agreement between the City of Milpitas Recreation Services and the Milpitas Unified School District for transportation services for Camp Stay & Play Summer 2003.

***22. AWARD BID FOR NINE COMMUNITY RESOURCES IN BOXES (CRIB) SUPPLY KITS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Staff issued a Request for Quotation for nine Community Resources In Boxes (CRIB) containers with emergency supply contents. Quotations were sent to three known disaster supply vendors and two responded. The supply contents include multiple quantities of 85 items (tools, blocking and wedging, building marking, search and rescue, and first aid kits) designed to provide SAFE teams with the ability to fight small fires, provide first aid and conduct light search and rescue during an emergency event. The containers will be located at each of the nine elementary schools in the City. The following is the recap of bids received including tax and delivery:

<u>Bidder</u>	<u>Amount</u>
Life Safety Associates	\$40,283.19
Earthquake Management	\$43,818.33

There are sufficient funds available in the Fire Emergency Management Services operating budget to purchase the CRIB kits.

RECOMMENDATION: Award the bid for the purchase of the CRIB kits to the lowest bidder, Life Safety Associates in the amount of \$40,283.19.

XX. CLAIMS AND DEMANDS

***23. APPROVE BUDGET TRANSFER FOR \$60,000 FROM CIP NO. 4109, STREET LIGHT POLE PAINTING, TO CIP NO. 4067, ANNUAL SIDEWALK REPLACEMENT (STAFF CONTACT: DENNIS CUCIZ, 586-2631)**

BACKGROUND: In order to provide for public safety and to avoid potential costly litigation related to trip and fall claims, Public Works will over-spend the annual sidewalk replacement budget. The following is a representative non-comprehensive list of recently repaired sidewalks or sidewalks in need of emergency repairs:

Yosemite Dr.
Gibraltar Dr.
South Milpitas Blvd.
North Milpitas Blvd.
East Calaveras Blvd.
1908 Yosemite Drive
Mattos Dr. at Edsel Dr.

North Park Victoria Dr.

In order to fund necessary sidewalk repairs, it is recommended the funds be transferred from CIP No. 4109, Street Light Pole Painting, to CIP No. 4067, Sidewalk Replacement.

RECOMMENDATION: Approve budget transfer from CIP No.4109, Street Light Pole Painting, to CIP No.4067, Annual Sidewalk Replacement.

***24. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval

1. \$20,231.56 to Preston Pipelines for an emergency repair to a 12" water line caused by a contractor for a private developer at Serra Way and Abel Street for the Engineering Division. The cost for the repairs will be reimbursed to the City by the private developer. (Funds are available from the Private Jobs deposit for this emergency repair.)
2. \$6,296.79 to All-Luminum Products, Inc. for the purchase of 300 folding aluminum cots, Red Cross standard model, directly from the manufacturer to stock the care and shelter cache at the Sports Center for the Fire Emergency Management Services Division. (Funds are available from the Fire Department operating budget for the purchase of these goods.)
3. \$6,960.00 to Republic Electric for the emergency replacement of a traffic signal pole at Milpitas Blvd and Yosemite Dr due to a traffic accident for the Street Maintenance Division. (Funds are available from the Street Maintenance Division operating budget for this emergency repair.)
4. \$6,875.00 to Balch Petroleum for State mandated secondary containment testing of five pump station fuel tanks for the Fleet Maintenance Division. (Funds are available from the Fleet Maintenance Division operating budget for this mandatory testing.)
5. \$15,211.25 to Preston Pipelines for the emergency repair of two 12" main water lines, one on Hillview Drive and the other on Country Club Drive, for the Utility Maintenance Division. (Funds are available from the Utility Maintenance Division operating budget for this emergency repair.)
6. \$6,827.91 to L N Curtis and Sons for the purchase of 122 chemical warfare agent protective Trychem coveralls and 192 pair of Nitri-Solve gloves for the Police Department. (Funds are available from the Police Department, Community Emergency Preparedness Plan operating budget for the purchase of this protective clothing.)

RECOMMENDATION: Approve the purchase requests.

***25. Approve Payroll Register (Staff Contact: Emma Karlen, 586-3145)**

BACKGROUND: The Payroll Register for the period ending May 17, 2003, in the amount of \$1,570,484.08 is submitted for approval.

RECOMMENDATION: Approve Payroll Register as submitted.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, July 1, 2003, AT 7:30 P.M.**

NOTICE:

Beginning August 5, 2003, the public portion of the City Council meetings will begin at 7:00 p.m.